

Serial No. 10/661,463

**Remarks**

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

***Claim Rejections - 35 USC § 101***

Claims 13 was rejected under 35 USC § 101 for being directed to non-statutory subject matter because claim 13 was directed to a computer program without direct mention of a computer storage medium. Claim 13 has been cancelled, thereby rendering moot the rejection.

***Claim Rejections - 35 USC § 103***

Claim 1, as amended, recites a method for planning stimulation of hyper/hypometabolic cortical areas that includes, *inter alia*, determining functional anatomical patient data, determining structural anatomical patient data and navigationally registering the functional anatomical patient data with the structural anatomical patient data such that the functional anatomical patient data are available for navigation.

Kucharczyk, as understood, fails to disclose or fairly suggest navigationally registering functional anatomical patient data with structural anatomical patient data such that the functional anatomical patient data are available for navigation. As discussed in the present application, registering functional anatomical patient data with structural anatomical patient data such that the functional anatomical patient data are available for navigation provides advantages for planning stimulation of hyper/hypometabolic cortical areas that are not contemplated by any of the cited references.

It does not appear that the Office Action addresses this claim element (which originally was presented in dependent claim 5) at all. At paragraph 2 on page 3, the Office Action states, "Kucharczyk discloses registration of image sets (col. 17, lines 28-33)." Col. 17, lines 28-33 states,

[I]t should be understood, however, that the image registration method and apparatus of the present invention, although emphasized with respect to

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endovascular procedures, is not limited to endovascular procedures, but may also be used for intracranial, transcutaneous and other procedures in all other regions of the body.

If, in fact, the Office Action is citing this portion of Kucharczyk for a teaching of navigationally registering functional anatomical patient data with structural anatomical patient data, it is respectfully submitted that reliance on this passage is misplaced.

None of the other cited references, including Howard, III ('685 and '588) and Hochman, cure the deficiencies of Kucharczyk. Neither Howard, III reference ('685 and '588) provide any disclosure or suggestion of navigationally registering functional anatomical patient data with structural anatomical patient data. As understood, Howard, III's ('685 and '588) only mention of navigation and/or stereotaxy is that conventional head frames are employed (see, e.g., col. 4, line 56 of Howard, III '588). Hochman is not properly combinable with Kucharczyk in that Hochman deals only with optical imaging of neuronal tissue, and as such, teaches away from that disclosed in Kucharczyk, as well as the claimed invention.

Therefore, it is respectfully submitted that claim 1 and claims 2, 3 and 6-12 and 14 dependent therefrom distinguish patentably over the references of record. Accordingly, the rejection should be withdrawn.

Claim 15 recites a method of stimulating hyper/hypometabolic cortical areas of a patient that includes, *inter alia*, simulating a field distribution for a stimulation coil relative to a position of the stimulation coil, determining a stimulation area for the stimulation coil relative to a position of the coil, detecting the position of the stimulation coil and navigationally registering the field distribution of the stimulation coil.

For at least the reasons discussed above with respect to claim 1, new claim 15 distinguishes patentably over Kucharczyk, taken alone or in combination with Howard, III ('685 and '588) and Hochman. In addition, none of Kucharczyk, Howard, III ('685 and '588) and Hochman, taken alone or in combination disclose or fairly suggest simulating a field distribution for a stimulation coil relative to a position of the stimulation coil and navigationally registering the field distribution of the stimulation coil.

Therefore, it is respectfully submitted that new claim 15 distinguishes patentably over the references of record.

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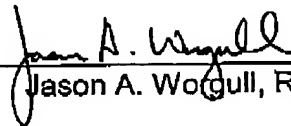
**Conclusion**

In view of the foregoing, request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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By



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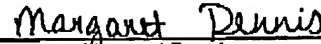
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I hereby certify that this paper (along with any documents referred to as being attached or enclosed) is being facsimile transmitted to the U.S. Patent and Trademark Office (571-273-8300) on the date shown below.

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